

(2) a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

(3) be represented by an attorney or other representative; and

(4) a written decision and the specific reasons therefor at the earliest practicable date.

(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

(d) An employee against whom an action is taken under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title.

(e) Copies of the notice of proposed action, the answer of the employee when written, a summary thereof when made orally, the notice of decision and reasons therefor, and any order effecting an action covered by this subchapter, together with any supporting material, shall be maintained by the agency and shall be furnished to the Board upon its request and to the employee affected upon the employee's request.

(Added Pub. L. 95-454, title II, §204(a), Oct. 13, 1978, 92 Stat. 1136.)

§ 7514. Regulations

The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter, except as it concerns any matter with respect to which the Merit Systems Protection Board may prescribe regulations.

(Added Pub. L. 95-454, title II, §204(a), Oct. 13, 1978, 92 Stat. 1137.)

SUBCHAPTER III—ADMINISTRATIVE LAW JUDGES

AMENDMENTS

1978—Pub. L. 95-454, title II, §204(a), Oct. 13, 1978, 92 Stat. 1137, substituted “ADMINISTRATIVE LAW JUDGES” for “HEARING EXAMINERS” in subchapter heading.

§ 7521. Actions against administrative law judges

(a) An action may be taken against an administrative law judge appointed under section 3105 of this title by the agency in which the administrative law judge is employed only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing before the Board.

(b) The actions covered by this section are—

- (1) a removal;
- (2) a suspension;
- (3) a reduction in grade;
- (4) a reduction in pay; and
- (5) a furlough of 30 days or less;

but do not include—

- (A) a suspension or removal under section 7532 of this title;
- (B) a reduction-in-force action under section 3502 of this title; or
- (C) any action initiated under section 1215 of this title.

(Added Pub. L. 95-454, title II, §204(a), Oct. 13, 1978, 92 Stat. 1137; amended Pub. L. 101-12, §9(a)(2), Apr. 10, 1989, 103 Stat. 35.)

PRIOR PROVISIONS

A prior section 7521, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 528; Pub. L. 95-251, §2(a)(1), Mar. 27, 1978, 92 Stat. 183, related to removal of an administrative law judge appointed under section 3105 of this title, prior to repeal by Pub. L. 95-454, §204(a).

AMENDMENTS

1989—Subsec. (b)(C). Pub. L. 101-12 substituted “1215” for “1206”.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-12 effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101-12, set out as a note under section 1201 of this title.

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

SUBCHAPTER IV—NATIONAL SECURITY

§ 7531. Definitions

For the purpose of this subchapter, “agency” means—

- (1) the Department of State;
- (2) the Department of Commerce;
- (3) the Department of Justice;
- (4) the Department of Defense;
- (5) a military department;
- (6) the Coast Guard;
- (7) the Atomic Energy Commission;
- (8) the National Aeronautics and Space Administration; and
- (9) such other agency of the Government of the United States as the President designates in the best interests of national security.

The President shall report any designation to the Committees on the Armed Services of the Congress.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 528.)

HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|------------------|---|
| | 5 U.S.C. 22-3. | Aug. 26, 1950, ch. 823, §3, 64 Stat. 477. |

Paragraphs (1)–(8) are supplied on authority of former section 22-1, which is carried in part into section 7532. The references to “the Foreign Service of the United States” and “several field services” are omitted as unnecessary since they are within the agencies concerned. The words “military departments” are substituted for the enumeration of the military departments in view of the definition of “military department” in section 102.

The reference to the National Security Resources Board is omitted as the Board was abolished by 1953 Reorg. Plan No. 3, §6, eff. June 12, 1953, 67 Stat. 636.

Paragraph (9) is restated to conform to the style of this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reor-

ganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ABOLITION OF ATOMIC ENERGY COMMISSION

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those sections.

PANAMA CANAL AND PANAMA RAILROAD COMPANY

Ex. Ord. No. 10237, Apr. 27, 1951, 16 F.R. 3627, made the provisions of former sections 22-1 and 22-3 of this title [see Disposition Table preceding section 101 of this title] applicable to the Panama Canal Government and to the Panama Canal Company.

DESIGNATION OF NATIONAL SECURITY AGENCY, DEFENSE INTELLIGENCE AGENCY, AND DEFENSE MAPPING AGENCY AS “AGENCIES”

Memorandum of the President of the United States, May 23, 1988, 53 F.R. 26023, provided:

Memorandum for the Secretary of Defense

I have reviewed the personnel security requirements of the National Security Agency, the Defense Intelligence Agency, and the Defense Mapping Agency and the termination provisions of 5 U.S.C. Section 7532. I have determined that these Agencies are sensitive agencies and that it is in the best interests of national security that they be designated “agencies” within the meaning of that section.

Therefore, pursuant to the authority set forth in 5 U.S.C. Section 7531(9), I hereby designate the National Security Agency, the Defense Intelligence Agency, and the Defense Mapping Agency as “agencies” within the meaning of 5 U.S.C. Section 7532.

You are hereby authorized and directed to report these designations to the Committees on Armed Services of the Congress and to publish this memorandum in the Federal Register.

RONALD REAGAN.

§ 7532. Suspension and removal

(a) Notwithstanding other statutes, the head of an agency may suspend without pay an employee of his agency when he considers that action necessary in the interests of national security. To the extent that the head of the agency determines that the interests of national security permit, the suspended employee shall be notified of the reasons for the suspension. Within 30 days after the notification, the suspended employee is entitled to submit to the official designated by the head of the agency statements or affidavits to show why he should be restored to duty.

(b) Subject to subsection (c) of this section, the head of an agency may remove an employee suspended under subsection (a) of this section when, after such investigation and review as he considers necessary, he determines that removal is necessary or advisable in the interests of national security. The determination of the head of the agency is final.

(c) An employee suspended under subsection (a) of this section who—

- (1) has a permanent or indefinite appointment;
- (2) has completed his probationary or trial period; and
- (3) is a citizen of the United States;

is entitled, after suspension and before removal, to—

- (A) a written statement of the charges against him within 30 days after suspension,

which may be amended within 30 days thereafter and which shall be stated as specifically as security considerations permit;

(B) an opportunity within 30 days thereafter, plus an additional 30 days if the charges are amended, to answer the charges and submit affidavits;

(C) a hearing, at the request of the employee, by an agency authority duly constituted for this purpose;

(D) a review of his case by the head of the agency or his designee, before a decision adverse to the employee is made final; and

(E) a written statement of the decision of the head of the agency.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 529.)

HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|---------------------------------------|---|
| | 5 U.S.C. 22-1 (less 3d-5th provisos). | Aug. 26, 1950, ch. 803, §1 (less 3d-5th provisos), 64 Stat. 476. July 29, 1958, Pub. L. 85-568, §301(c), 72 Stat. 432. |

The application of this section is covered by the definition in section 7531.

In subsection (a), the words “Notwithstanding the provisions of section 652 of this title” are omitted but are carried into section 7501(c). The words “in his absolute discretion” are omitted as unnecessary in view of the permissive grant of authority. The word “reinstated” is omitted as it is commonly used in other statutes to denote action different from that referred to here.

In subsections (b) and (c), the words “remove” and “removal” are coextensive with and substituted for “terminate the employment”, “termination”, and “employment is terminated”, as appropriate.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 7533. Effect on other statutes

This subchapter does not impair the powers vested in the Atomic Energy Commission by chapter 23 of title 42, or the requirement in section 2201(d) of title 42 that adequate provision be made for administrative review of a determination to dismiss an employee of the Atomic Energy Commission.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 529.)

HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|------------------|---|
| | 5 U.S.C. 22-2. | Aug. 26, 1950, ch. 803, §2, 64 Stat. 477. |

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those sections.

SUBCHAPTER V—SENIOR EXECUTIVE SERVICE

§ 7541. Definitions

For the purpose of this subchapter—